BANKING DISPUTE RESOLUTION: INDONESIAN AND JAPAN PRACTICE

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ABSTRACT

The increased interaction between banks and customers has the potential to cause disputes, which result in loss of customers and damage to the bank's reputation. The judiciary is given the authority to resolve it, however, the judiciary is not the first choice but a special institution with certain authority, the process is fast, and the satisfaction of both parties is achieved. This article describes the practice of banking dispute resolution in Indonesia and Japan, by using comparative studies it can be concluded that the resolution of banking disputes in Japan through the court is very long, so that an alternative dispute resolution is developed outside the court by prioritizing mediation and conciliation through the Japanese Bankers Association. Unlike Indonesia, banking disputes are resolved in 2 stages, first the bank is obliged to immediately settle the complaint, if no agreement is reached, then the parties should submit a dispute resolution to the Alternative Institution of Indonesian Banking Dispute Resolution, in the forms of mediation, adjudication and arbitration.

Keywords: Dispute Resolution, Banking.

INTRODUCTION

Distribution of banking funds in Indonesia to customers is one of the sources of disputes between banks and consumers, complaints to consumer services The Financial Services Authority (2013:2014) was ranked first in quarter 1 of 2015 (Integrated Consumer Service System, 2015). Other sources of disputes arise due to unlawful conduct, wrongdoing that causes loss on either side and therefore shall be obliged to replace it.

The absence of customer complaints and complaints is generally submitted to the relevant bank to be resolved, but at the final stage of internal complaint resolution, an agreement is not reached, a dispute arises. One side of the customer has limited information and understanding of banking products, and the other, banks have a better bargaining position. It is this condition that encourages the judiciary to play role to end the dispute, but multi-tiered and multi-level judicial procedures require large costs, and neither does every customer understand the role of the judiciary in resolving disputes that should be simple, accessible, responsive, objective, and affordable. This final reality is expected to be achieved by the presence In Indonesia Lembaga Alternatif Penyelesaian Sengketa Perbankan Indonesia (LAPSPI).

Japan, which adheres the philosophy of confucianism with conciliatory culture which emphasizes harmony, the resolution of banking dispute is primarily not from the judiciary, but the Japanese Bankers Association (JBA, 2010), its members consist of banks, bank holding companies and banker associations. The agreement was made along with the mediation committee, the support organization of dispute resolution which began its operations on October

1, 2010. JBA was present to resolve the extensive, tiring and the costly of justice system, only 10-15 years for a dispute with 3-5 years only for the first level trial.

Using a comparative approach, this article will compare banking dispute resolution practices implemented in Indonesia and Japan.

The Model of Banking Dispute Resolution in Indonesia

Banks as financial institutions which play an important role in the country's economy, the more advanced the existence of the banking world is increasingly needed by the government and society (Kasmir, 2002). However, trust is the main capital of operational operations; it cannot stand on its own without the trust of the community where the banking activities are located. (Hermansyah, 2005; Sigit & Totok, 2006) However, the relationship between the customer and the bank are not always going well, it is possible to dispute both. Thus, it requires effective and efficient dispute resolution, which gives benefit to parties, satisfying customers and maintaining the bank's reputation.

Banking dispute resolution which related to the conflicts over consumer services or the consequences of unlawful acts by the OJK as an independent institution overseeing microprudential aspects related to bank institutions, permits, health, liquidity, prudential aspects and bank checks, regulated by two institutions. First, the bank completes the customer complaint. Second, if no agreement is reached, customers and banks can resolve it through LAPSPI. Internally the bank completes the client's oral complaint two business days, and 20 working days plus the next 20 working days if there are certain conditions in written complaint. In principle, the first stage is the handling of disputes after the emergence of dissatisfaction with banking products and services. Effective and efficient internal handling of bank complaints can benefit both parties, reducing external dispute resolution options that are more expensive and take longer. The mechanism for handling internal bank complaints is designed to be easily utilized by customers by requiring only minimal information or assistance, either through face-to-face, letters, e-mail, or other easily accessible media. However, the stage of customer complaint resolution, often does not reach an agreement, because the customer's demands are not fulfilled, or the bank's reluctance to provide compensation, resulting in a dispute to the customer. This disagreement is the way to choose dispute resolution in court or LAPSPI as a non-judicial organ. LAPSPI on resolving disputes are cling to the Principles of Accessibility, Independence, Justice, Efficiency and Effectiveness. The dispute resolution scheme is easily accessible and communicative so it is easy to understand, and spread throughout Indonesia.

The Independence Principle is carried out by LAPSPI in view of the establishment of the institution by banking industry players coordinated by banking associations. In order to maintain independence in providing its services, even though it was established by a banking association, it is better to involve academics in the regions as mediators, adjudicators and arbitrators, so that in the future LAPSPI can be used to help resolve disputes in the regions. Based on the applicable regulations, LAPS needs to be equipped with a supervisory organ to ensure that LAPSPI fulfills the requirements to carry out its functions, and places the position of the Alternative Dispute Resolution Institution as an independent institution which cares to the balance of interests, banks and customers.

In fulfilling the principle of Justice, LAPSPI has regulations in decision making provided that the mediator must truly act as a facilitator in order to bring together the interests of the

parties to the resolution of a resolution agreement. Likewise, the adjudicator and arbitrator do not take the decisions based on information which unknown by both of the parties, beside that the adjudicator and arbitrator must provide written reasons in each decision. In the event that an adjudicator or arbitrator has information from outside the parties and the information is used as material for consideration of the decision, the adjudicator or arbitrator must convey the information to the parties. Thus the principle of justice will be achieved in dispute resolution services through LAPSPI. Principles of Efficiency and Effectiveness in dispute resolution, with low cost to customers, and fast period of time. The execution of decision are monitored or supervised by LAPSPI.

The application of these principles are needed in order to realize LAPSPI which protect the customers, so that it will prevent the emergence of complaints or disputes from customers, because it fosters awareness of the bank's financial services businessmen regarding the importance of consumer protection and enhances the empowerment of customers through the fulfillment of rights and obligations (Etty, 2016). Ensuring the fulfillment of the rights and obligations of customers, will reduce the potential for complaints or disputes. In addition, the application of these principles aims to resolve the dispute in the financial services sector can be done easily, quickly, cheap, fair, and the decisions can be implemented. Dispute resolution through LAPSPI is confidential and apply final and binding on both parties.

Dispute resolution which can be resolved by LAPSPI meets such following requirements:

1. Is a civil dispute arising between parties in the field or related to banking.
2. There is an agreement between the parties to the dispute that dispute will be resolved through LAPSPI.
3. There is a written application (case registration) from the dispute parties with LAPSPI.
4. Not a case dispute within the scope of criminal law and or administrative law.

Dispute resolution through LAPSPI is confidential so the disputing parties are more comfortable in carrying out the dispute resolution process, and are carried out by those who have expertise in accordance with the type of dispute, so as to produce objective and relevant decisions. As an alternative dispute resolution institution, LAPSPI guarantees and upholds the integrity, independence and impartiality of its Mediators/Adjudicators/Arbitrators, as stipulated in the LAPSPI Mediator/Arbitrator Code of Ethics. A Mediator/Adjudicator/Arbitrator LAPSPI is not permitted to handle a dispute if the person concerned has a conflict of interest with the case handled or with one of the disputing parties or the legal counsel. If it is found out that there is a conflict of interest between the Mediator/Adjudicator/Arbitrator and the parties, the relevant Mediator/Adjudicator/Arbitrator must be replaced with another who does not have a conflict of interest.

LAPSPI provides dispute resolution services through resolution mechanism in out-of-court dispute resolution, which includes Mediation, Adjudication and Arbitration. Customers cannot immediately take adjudication or arbitration if they have not previously taken the mediation process first. Mediation is a way of resolving a dispute through a third party (mediator) to help the disputing party reach peace agreement. Mediation is a way of resolving disputes outside the court through negotiations involving third parties who are neutral (non-intervention) and not in favor of the parties to the dispute and their presence is accepted. (Rachmadi, 2011) Mediation contains elements such as: (A) Mediation is a process for resolving disputes based on voluntary principles through negotiations. (B) Mediators who are involved and

accepted by the disputing parties in the negotiations. (C) The mediator is in charge of helping the parties to the dispute to find a solution. d. The mediator does not have the authority to make decisions during negotiations. e. The purpose of mediation is to achieve or produce an agreement that is acceptable to the parties to the dispute (Bambang, 2008).

The parties themselves who agreed to make peace then made the Deed of Peace. Mediation is chosen because of the willingness of the parties to resolve the dispute between the bank and the customer without mutual disadvantage of one party (win-win solution). With this fair solution, the parties can maintain long-term relationship. Mediation through LAPSPI is conducted enclosed to the public so that the confidentiality element can be maintained.

The mediator is a neutral party which assists the parties in the negotiation process in mediation to find solutions of dispute resolution, the mediator is not allowed to decide or impose a resolution. The function of the mediator only facilitates the meeting in the mediation framework the disputing parties to understand the perspectives, positions and interests of each party upon the disputes faced and find alternatives to the resolution in a fair, fast, cheap and efficient manner. The mediator in carrying out his duties is governed by the Code of Conduct to ensure that the mediator is impartial and independent. LAPSPI mediators are professionals in the banking industry who understand the world of banking well and have mediation expertise and have a national mediator certificate.

Mediation Negotiations must begin no later than 7 (seven) days after the date of receiving the decision to appoint the Mediator, and last for a maximum of 30 (thirty) days. Upon agreement of the Parties and Mediation mediators may be extended for a maximum of 30 (thirty) more days. The mediation process is carried out efficiently and earnestly so that the Parties can reach the Peace Agreement.

If the Mediation efforts already taken, but have not succeeded in reaching a peace agreement, the parties want a decision on the dispute through the Adjudication mechanism. The most important requirement to be able to submit a dispute resolution application to the LAPSPI Adjudication is the existence of an Adjudication Agreement between the parties to the dispute. An Adjudication Agreement is a written agreement of the parties that the dispute between the parties will be resolved through an LAPSPI Adjudication. Adjudication means dispute resolution through a third party (adjudicator) to render a decision on a dispute, the decision is binding on the bank. If the customer approves the adjudication decision even if the bank does not approve it, the bank must carry out the adjudication decision, on the contrary if the customer does not approve the adjudication decision, even if the bank approves it.

The adjudicator is one or more who appointed under LAPSPI adjudication rules and procedures to examine cases and provide adjudication decisions on certain disputes submitted to the LAPSPI adjudication. The adjudicator appointed by the LAPSPI Administrator, but the parties retain the right to refuse the appointment if the Adjudicator has a conflict of interest. In performing its duties, the adjudicator should uphold the code of ethics, fairness, neutral and independent, free from any influence and pressure of any party, and free from conflicts of interest and affiliation, either with one of the parties to the dispute or with the relevant dispute material. If these matters are violated, the adjudicator must stop or be dismissed from his duties by the Administrator.

Disputes that can be resolved through LAPSPI Adjudication are disputes in the banking sector and/or related to the banking sector and disputes which according to the law can be held peace. The adjudication dispute resolution is carried out by the parties based on good faith and

dignity by ruling out other dispute resolution mechanisms. The participation of the parties in the adjudication process is based on their own desires without coercion and must be followed with respect, mutual respect and orderliness. There is a necessity for the Respondent to accept any adjudication decision, and otherwise the option given to the Applicant to accept or not receive an adjudication decision, is the nature of the adjudication mechanism, so the parties will not make an adjudication agreement without these two things. The adjudication award is final and binding on the parties after the applicant receives and signs the Adjudication Decision, and must be carried out in good faith by the parties and cannot be challenged or denied.

Toward an adjudication decision which is final and has a permanent and binding legal force, it must be carried out within the time specified in the Adjudication Decision, provided that there are parties who do not comply with or implement the Adjudication Decision within the stipulated time, the other party can written to the disbelievers with a copy of LAPSPI. Within a maximum period of 7 (seven) days after receiving the copy letter, LAPSPI submits a written warning to the party who reneges, with a copy of the other party. If it is still denied, LAPSPI and/or other parties can submit a written reprimand to the party who denied it with a copy of the LAPSPI member. The parties acknowledge and approve and will not submit any form of complaint to LAPSPI and other parties that, if it has expired 7 (seven) days after the date of submission, the warning letter is still denied, LAPSPI and/or other parties can return written warning to those who disavow, with copies of the OJK and all LAPSPI Members.

Arbitration is a method of resolving civil disputes on the banking sector and those related to the banking sector outside the general court, which is held by LAPSPI using LAPSPI rules and arbitration procedures. Dispute resolution through arbitration is based on an arbitration clause or an arbitration agreement made in writing by the customer and the bank as the disputing party.

There are several reasons why the parties to the dispute choose LAPSPI Arbitration to settle the dispute, among others, that the parties to the dispute are no longer able to continue the negotiation, want a resolution method that considers the right-based procedure (approach). The disputing parties want a final and binding decision, but do not want to take litigation because it will take a long time and a large cost. By choosing arbitration requires an easier, faster and more efficient way, and wants to get a guarantee that the person who will give a decision on the dispute (Arbitrator) really understands the banking field and has Arbitration expertise. In addition, it wants to resolve disputes through closed forums for the public, clean event practices and decisions that can be implemented without constraints on state legal jurisdiction.

The parties who have been bound by the Arbitration Agreement and require the LAPSPI Arbitration process to be immediately held, then one of the parties who act as the Petitioner (the plaintiff) shall notify the counterpart first that the Arbitration Terms as referred to in the Arbitration Agreement signed together has been applied, so that the resolution of the dispute will immediately be submitted to the LAPSPI Arbitration.

If it has not been agreed upon in the Arbitration Agreement, the Applicant can submit an odd number of Arbitrators. In general, the number of Arbitrators is 3 people. The Respondent must give a response to the Petitioner with a copy to the LAPSPI Management, no later than 10 days after receiving the Petitioner's notification, especially regarding the number of Arbitrators proposed by the Applicant. The notification obligation does not apply if the Arbitration Agreement is made after a dispute arises, because the parties have already known that the dispute will immediately be submitted to Arbitration.

The parties have the right to appoint the Arbitrator, and the Arbitrator shall be entitled to accept or reject the appointment. In the LAPSPI Arbitration process, the parties first must agree on the form of Arbitration, whether to be a Single Arbitrator or Arbitrator Assembly (amounting to 3 or more Arbiters, and must be an odd number). The arbitrator is an individual who due to his competence and integrity is elected by the parties to the dispute to examine and provide a decision on the dispute concerned.

Arbitrators may be appointed by the Applicant and the Respondent, the Arbitrators in the LAPSPI Arbitration are those listed in the LAPSPI Permanent Arbitrator List. However, if the Applicant and/or Respondent intends to appoint an Arbitrator from outside the list (the Arbitrator is not permanent), then he must fulfill certain requirements and get approval from the LAPSPI Administrator. In carrying out its duties, Arbitrators must uphold the code of ethics, be fair, neutral and independent, free from the influence and pressure of any party, and free from conflicts of interest and affiliation, either with one of the disputing parties (including their legal counsel) or with concerned. If such matters are violated, the arbitrator concerned shall cease or be dismissed from his duties.

Each disputing party can be represented by its attorney with procuration of attorney, has a legal practice license in accordance with the applicable laws and regulations, or for a bank, can be represented by an authorized Legal official with a special assignment letter from the Bank concerned. If the Applicant/Respondent intends to undergo the LAPSPI Arbitration process without being accompanied by an attorney, then he/she can request an explanation from the LAPSPI Secretariat on how to make a claim and/or other documents in answers, verification and conclusion.

If the examination of the dispute has been completed, the examination is immediately closed and the Arbitrator sets the day of the hearing to pronounce the Arbitration Award. An Arbitration Award will be pronounced in a session closed to the public within 30 days after the examination is closed, with or without the parties to the dispute being attended. In making a decision, the Sole Arbitrator/Arbitral Tribunal is free from the intervention of any party, including the LAPSPI Management or the authorities in Indonesian Banking, can take decisions based on legal provisions or in accordance with a sense of justice and propriety (*ex aequo et bono*). LAPSPI Arbitration Award in an Arbitration Tribunal is decided on the basis of deliberation to reach a consensus, if it is not reached, the decision is taken on the basis of the most votes (voting) by giving the right to include dissenting opinions.

Arbitration decisions are final and have permanent legal force and binding on the parties. Therefore, the Arbitration Award cannot be appealed or reviewed. Within a maximum period of 30 days from the date stated, the original/authentic copy of the Arbitration Award is submitted and registered by LAPSPI (in this case the Sole Arbitrator/Arbitration Tribunal or its proxy) to the court of the district court. This registration is the most important factor in the implementation of the Arbitration Award, without registration will result in the decision cannot be implemented. In the registration process and request for an execution order, the Chairperson of the District Court does not re-examine the reason or consideration of the Arbitration Award. This is a protection and guarantee provided by the Act so that the Arbitration Award is truly independent, final and binding.

If there are parties who are not willing to carry out the Arbitration Award voluntarily, then the Arbitration Award will be carried out based on the order of execution of the Chairperson of the local District Court at the request of one of the interested parties; Interested party and/or

LAPSPI can submit complaints to the management of the association/organization where he is a member. Associations/organizations where interested parties become members and/or LAPSPI can submit complaints to the Banking authorities and all LAPSPI members.

Of the three types of services at LAPSPI, the way to resolve disputes through Mediation is an option that is suitable for the purpose of protecting clients, because basically mediation is a negotiation process between the disputing parties, namely customers and banks, involving a mediator from LAPSPI. The mediator assists the parties to the dispute to reach a resolution in the form of a voluntary agreement on some or all of the disputed issues. Confidential so that the disputing parties are more comfortable on the dispute resolution process. Through the mediation process, the mediator has the duties to direct, encourage, motivate and inspire the parties to reach an agreement. The mediator are neutral and does not take part in decision making, so that the parties are expected to finally get a win-win solution, where the rights of the customer are protected and the bank's reputation is also maintained.

OJK has the authority to monitor LAPSPI's performance, in every dispute resolution decision issued by LAPSPI to the disputing parties to. And LAPSPI is obliged to monitor the implementation of its decisions, and report to OJK if bank does not implement the LAPSPI decision. Based on the report, OJK can impose administrative sanctions on the Bank. Based on the provisions concerning Dispute Resolution, which regulate on sanctions. Banks that violate will be subjected to administrative sanctions, including written warnings; fines namely the obligation to pay a certain amount of money; restrictions on business activities, and or revocation of business licenses.

The Model of Banking Dispute Resolution in Japan

Alternative Dispute Resolution (ADR) is an effort to overcome the delays and stagnation of dispute resolution through the court (ordinary court). The extensive resolution of cases in Japanese courts averages 10 to 15 years in total. First level, an average of 3 to 5 years. For this reason an alternative system was developed.

Conciliation (*chotei*) was used since the Tokugawa era as an alternative dispute resolution, which was promulgated as a civil conciliation or "*mini choteiih*" in 1951. In addition, Japan has long known mediation as a place to resolve disputes, where civil disputes are resolved. After the tokugawa, the 1868 Meiji restoration that made Japan related to the west encouraged modernization, until 1895 Japan adopted a modern legal system. The third wave of legal reform on a large scale after Meiji modernization occurred along with economic globalization.

The globalization of the Japanese economy makes traditional "*systems*" larger and also now requires a new system that shows global standards. Japan's trading and business activities have made more trade disputes within the Cross-border scope. Therefore, the method of resolving trade disputes is adjusted to global standards. One is arbitration, but the concept of arbitration can be interpreted differently by every culture and arbitration cannot be addressed to resolve disputes involving cultural conflict.

The traditions of Japan and other East Asian countries which influenced by the philosophy of Confucianism have a conciliatory culture, where mediation or conciliation has long been recognized as a more suitable mechanism for dispute resolution. This is in line with Japanese culture which emphasizes harmony, which in turn affects to prioritize mediation and conciliation and not litigation. The efficiency of other dispute resolution such as arbitration, its

existence is now questioned, because it is not flexible, expensive and takes a long time. In Japan arbitration is a good resolution of disputes with the establishment of arbitration connected to mediation and conciliation. So, at first the dispute was brought to the arbitration institution, it was not immediately arbitrage but the mediation first, when the mediation failed then the conciliation, and if the conciliation failed, to arbitration, so it is more connected system.

The development of Japanese Alternative Dispute Resolution form begins with the emergence of arbitration institutions, and then connected to other forms of dispute resolution which can be described as follows:

Court Connected Mediation in Japan

There are 3 Court Connected Mediation service lines in Japan, namely:

Chotei's petition outside the litigation process (no suit) in court

Because there is no claim beforehand this is a chotei outside the litigation process (there has been no claim) but is done in summary court with the help of conciliation commissioners consisting of three people (one judge as chairman and two non-judges as a member consisting of lawyers and the technical profession whose selection depends on the type of case). Now because of the busyness of the judge, the position of mediating judge can be filled by an advocate with a term of 2 years and can be reappointed.

Chotei Litigation

Where the claim is made first:

1. The conciliation shall be made with the consent of the disputing parties with the assistance of conciliation commissioners upon entering the litigation process.
2. The judge who handled the case made a summary of the outline and issues that were important to facilitate conciliation commissioners to quickly understand the case.
3. Conciliation commissioners can provide peace proposals, and if there are no objections from the parties during the 14 days of the proposal, the proposal becomes a decision as well as a court decision (Article 18 Minji chotei ho/law civil conciliation conserling).
4. Wakai, if the chotei is carried out by three commissioners chaired by a judge who does not handle the case, then wakai same with article 130 HIR/154 RBg where the mediator chairperson is perceived as a judge handling the case. Is a conciliation/mediation between the parties with the help of a judge handling the case as a mediator (without conciliation commissioners)? Wakai can be applied in the summary court and district court based on their jurisdiction.

Technical chotei and wakai (*wakai gijutsu ron Yoshiro Kusano*)

The high success rate in Japan was due to the application of the chotei and wakai techniques as Yoshiro Kusano wrote in the title Wakai Gijutsu Ron:

1. Case evaluation based on position.
2. Ability/expertise to listen to the power (to listen)
3. The ability to sit at the same level and stand equal, this is called merge with parties.
4. There is the ability to show empathy for the parties.
5. Understanding the causes of conflict.

6. Do not express the strengths and weaknesses of the disputing parties.

Besides chotei and wakai which are mediated both in court and outside court as described above, in japan are still known other types of dispute resolution namely:

1. *Assen* (facilitation) is a neutral third party to help the parties to the conflict to reconcile the dispute. Facilitators of the parties to make peace. Sometimes the facilitator also helps make draft contents for peace.
2. *Chotei* (mediation) is the role that is almost the same as the facilitator but the mediator plays a more active role.
3. *Minji chotei* (mediation) that is the implementation is somewhat different from the ADR chotei procedure. Conducted in conjunction with minji chotei ho (law concerning the cincilitation of civil) conducted by the conciliation council headed by a judge. Minji Chotei are applied to the beginning of the summary court.
4. *Saitei* (adjudication) is also carried out by neutral third parties. After listening to the dispute case issued a decision called *saitei*, if the parties within a certain time do not object to the decision, then the peace agreement becomes final. If there are parties who object the case goes to court litigation procedures.
5. The arbitration procedure with its application is almost the same as arbitration from other countries.

The JBA on September 15, 2010 was appointed as an "*ADR organization*" based on the Banking Act and the Norinchukin Bank Act. From October 1 of the same year, JBA began operating ADR (problem solving and other services) services. October 1, 2010, JBA formed a "*Bank Consultation Office*" established by the Tokyo bank association legal entity, Japanese bank consulting office as the recipient division of the JBA complaint. Then, the *"Mediation Committee*" that exists in the problem solving organization in JBA, deals with issues related to securities and insurance services. This implementation condition report contains the conditions of treatment procedures for complaints and consultations received by the JBA Consultation Office as well as the conditions for problem solving procedures to the Mediation Committee in the 3rd quarter of 2010 (October to December).

On September 24, 2010, JBA entered into a joint agreement with the Mediation Committee with the aim of strengthening its support for resolving complaints/disputes and facilitating the use of support systems for dispute resolution. Outline of the agreement:

1. Strengthening alternative financial dispute resolution is a means to increase customer confidence in the bank. The banking industry has taken steps to provide fair and neutral dispute resolution vehicles that can provide prompt and transparent dispute resolution, and have established measures to ensure its effectiveness for customers. Member banks are committed to trying to listen carefully to the voices of customers and to prevent problems.
2. Member banks that conduct derivative transactions and certain deposits, and others must agree to become "*target business people*" JBA as a certified investor protection organization, unless a reasonable reason for not doing so exists.
3. When resolution of complaints that are forwarded to each bank or office of a consumer relationship seems difficult, the member bank will refer the subject to the Mediation Committee with the consent of the customer, and attempt to resolve the complaint immediately in accordance with the mediation proposal. When a customer wants to utilize the Mediation Committee, etc., priority must be given to using supporting organizations to resolve disputes that customers want to use.
4. Member banks must comply with the "*Rules for Facilitating Resolution and Mediation Complaints*," and sincerely handle claims to resolve them smoothly.
5. JBA proactively conducts public relations through leaflets and posters regarding the consumer relations office and the Mediation Committee.

Complaints received by the JBA Consulting Office in the 2010 quarter amounted to 5,264 cases, this number increased by 2,332 (79.5%), and also increased in the next quarter (second

quarter of 2010) as 2,696 cases (105.0%). The main cause are the information about the JBA Consultative Office and the Mediation Committee is published through posters, leaflets and newspapers, so consultations and more from all customers in every place can be communicated. In addition, consultations and other related JBA non-member banks can also be conveyed.

Consultation characteristics and others based on the type of bank service, the sequence of data with the highest number of cases are as follows; savings services 1,000 cases (19.0%), bank associations 923 cases (17.5%), loan services 859 cases (16.3%), becoming bank members 799 cases (15.2%). In the data, the order of data on the number of complaints is as follows; savings services 257 cases (25.1%), loan services as many as 225 cases (22.0%), derivative services as many as 114 cases 4 (11.1%). The cause of the emergence of complaints is the lack of information about the bank's explanation and the variety of explanations compared to the unified explanation.

Regarding savings services, there are 1,000 cases, 257 of which are complaints. In addition to savings withdrawals and account number creation, savings insurance system information consultation also increased because interest in the bank's savings security was on the rise (Djuhaendah, 1996). In addition, complaints were also received regarding old age savings management and inheritance savings withdrawal procedures. Consultation and other loan services are 859 cases. Of these, there were 225 complaints. Consultations received are related to loan services, the influence of loans for bank consumers with the legal rules of revised money lending, handling natural disaster insurance and home loans. As for consultations and other related loans for small and medium sized businesses, the number of cases received related to consultations for small and medium enterprises is included in the loan service.

The number of Dispute Resolution Procedures in the Quarter, the mediation committee have met 19 times and conducted a qualified review of 52 cases, 42 cases approved and 10 cases rejected. In this quarter, issues that have been resolved through the dispute resolution procedure are 33 cases. In the completed case, received mediation suggestions from the mediation committee, and the number of cases completed by the relevant parties were 11 cases. The number of mediation reports drawn by the applicant is 1 case, The number of cases in which the mediation committee terminates the dispute resolution procedure because the claim gap between the two parties is very large and does not allow mediation to be achieved there 11. The result of the review by the mediation committee, there are 10 cases not approved and terminated.

There are similarities and differences in dispute resolution mechanisms, similarities in both Indonesia and Japan banking disputes are resolved through dispute resolution mechanisms outside the court, this is in accordance with the traditions of Japan and East Asian countries including Indonesia which emphasizes harmony. The difference in Indonesia is that the dispute is completed in two stages, in the first stage the dispute is resolved internally in the bank, the result of which is a voluntary agreement. It is expected that at this stage the dispute can be completed, but if it is not continued in the second stage through ADR, namely LAPSI. Whereas in Japan direct complaints and disputes about mediation and conciliation through the ADR organization or the Dispute Resolution Organization established by each banking industry, namely JBA.

CONCLUSION

Banking dispute resolution in Indonesia, through 2 stages. First the bank must immediately resolve complaints submitted by the customer, if no agreement is reached, then the

next stage of the bank and the customer can submit a dispute resolution to LAPSPI. In Japan the dispute resolution prioritizes mediation and conciliation instead of litigation by developing ADR. In solving the JBA banking dispute is designated as ADR as a means of dispute resolution with agreement, fast and transparent, which increase customer confidence and trust upon bank.

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